

1 ERIC KAFKA (*pro hac vice forthcoming*)
2 **COHEN MILSTEIN SELLERS & TOLL PLLC**
3 88 Pine Street, 14th Floor
4 New York, NY 10005
5 Telephone: (212) 838-7797
6 Facsimile: (212) 838-7745
7 ekafka@cohenmilstein.com

8 KARINA PUTTIEVA (SBN 317702)
9 JENNA WALDMAN (SBN 341491)
10 **COHEN MILSTEIN SELLERS & TOLL PLLC**
11 1100 New York Ave. NW, Fifth Floor
12 Washington, DC 20005
13 Telephone: (202) 408-4600
14 Facsimile: (202) 408-4699
15 kputtieva@cohenmilstein.com
16 jwaldman@cohenmilstein.com

17 PAUL HOFFMAN (SBN 71244)
18 **SCHONBRUN SEPLOW HARRIS**
19 **HOFFMAN & ZELDES LLP**
20 200 Pier Ave., Suite 226
21 Hermosa Beach, CA 90254
22 Telephone: (424) 297-0114
23 Facsimile: (310) 399-7040
24 hoffpaul@aol.com

25 *Attorneys for Plaintiffs and Putative Class*

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JODY VILLANUEVA, on behalf of
J.C.; ANGELA FAUCETT, on behalf
of K.F.; and LAMARTINE PIERRE,
JR., on behalf of C.P.,

Plaintiffs,

vs.

BYTEDANCE INC.; BYTEDANCE
LTD.; TIKTOK LTD.; TIKTOK INC.;
TIKTOK PTE. LTD.; and TIKTOK
U.S. DATA SECURITY INC.,
Defendants.

Case No:

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiffs Jody Villanueva, on behalf of, J.C., Angela Faucett, on behalf of K.F.,
2 and Lamartine Pierre, Jr., on behalf of C.P., individually, and on behalf of all others
3 similarly situated, hereby file suit against the Defendants listed above and alleges the
4 following:

5 **INTRODUCTION**

6 1. TikTok is one of the world's largest social media platforms, widely
7 known for its popularity with children and young adults.

8 2. TikTok is not just popular with teenagers: TikTok has millions of users
9 who are under the age of 13.

10 3. TikTok collects and uses these young children's personal information
11 without providing direct notice to their parents or gaining their parents' verifiable
12 consent. TikTok's conduct violates the Children's Online Privacy Protection Act of
13 1998 ("COPPA") and the COPPA Rule.

14 4. In 2019, the Department of Justice filed a lawsuit against TikTok for
15 violating COPPA and the COPPA Rule. In March 2019, this Court entered a
16 Permanent Injunction prohibiting TikTok from collecting and using personal
17 information from children under the age of 13 without notifying their parents or
18 gaining their parents' verifiable consent.

19 5. The Permanent Injunction did not stop TikTok. TikTok continues to
20 violate COPPA. Thus, last month, the Department of Justice filed a new lawsuit
21 against TikTok for violating COPPA and illegally collecting and using young
22 children's personal information.

23 6. Plaintiffs seek to represent millions of American children whose
24 personal information has been unlawfully collected and used by TikTok.

25 7. Plaintiffs seek to hold TikTok accountable for their repeatedly violating
26 the rights of American children and to ensure that TikTok's misconduct is finally
27 stopped.
28

PARTIES

8. *Plaintiff Jody Villanueva, on behalf of her child, J.C., a minor.* Plaintiff Jody Villanueva and J.C. are residents and citizens of the State of California and natural persons. During the Class Period, J.C. created and used TikTok accounts (while under the age of 13) and viewed content on the TikTok platform.

9. *Plaintiff Angela Faucett, on behalf of her child, K.F., a minor.* Plaintiff Angela Faucett and K.F. are residents and citizens of the State of Washington and natural persons. During the Class Period, K.F. created and used a TikTok account (while under the age of 13) and viewed content on the TikTok platform.

10. *Plaintiff Lamartine Pierre, Jr., on behalf of his child, C.P., a minor.* Plaintiff Lamartine Pierre, Jr. and C.P. are residents and citizens of the State of New York and natural persons. During the Class Period, C.P. created and used a TikTok account (while under the age of 13) and viewed content on the TikTok platform.

11. Defendant TikTok Inc. is a California corporation with its principal place of business at 5800 Bristol Parkway, Suite 100, Culver City, California 90230. TikTok Inc. transacts or has transacted business in this District and throughout the United States.

12. Defendant TikTok U.S. Data Security Inc. is a Delaware corporation with its principal place of business shared with TikTok Inc. TikTok U.S. Data Security Inc. transacts or has transacted business in this District and throughout the United States.

13. Defendant ByteDance Ltd. is a Cayman Islands company. It has had offices in the United States and in other countries. ByteDance Ltd. transacts or has transacted business in this District and throughout the United States.

14. Defendant ByteDance Inc. is a Delaware corporation with its principal place of business at 250 Bryant Street, Mountain View, California, 94041. ByteDance Inc. transacts or has transacted business in this District and throughout the United States.

15. Defendant TikTok Pte. Ltd. is a Singapore company with its principal

1 place of business at 8 Marina View Level 43 Asia Square Tower 1, Singapore,
2 018960. TikTok Pte. Ltd. transacts or has transacted business in this District and
3 throughout the United States.

4 16. Defendant TikTok Ltd. is a Cayman Islands company with its principal
5 place of business in Singapore or Beijing, China. TikTok Ltd. transacts or has
6 transacted business in this District and throughout the United States.

7 17. Collectively, Plaintiffs refer to Defendants TikTok Inc., TikTok U.S.
8 Data Security Inc., ByteDance Ltd., ByteDance Inc., TikTok Pte. Ltd., and TikTok
9 Ltd. as “Defendants” or “TikTok”.

10 **JURISDICTION**

11 18. This Court has subject matter jurisdiction over this action under 28
12 U.S.C. § 1332(d)(2) because this is a class action wherein the amount in controversy
13 exceeds the sum or value of \$5,000,000, exclusive of interest and costs, there are more
14 than 100 members in the proposed classes, and at least one member of the classes of
15 Plaintiffs is a citizen of a state different from the Defendant.

16 19. This Court has personal jurisdiction over Defendant TikTok Inc.,
17 Defendant TikTok U.S. Data Security Inc., and Defendant ByteDance Inc. because
18 they are headquartered in California, and conduct business in the state of California.

19 20. The Court has personal jurisdiction over all of the Defendants because of
20 Defendants’ continuous and systematic business contacts with the State of California.

21 21. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a
22 substantial part of the events or omissions giving rise to these claims occurred in, were
23 directed to, and/or emanated from this district.

FACTUAL ALLEGATIONS

**A. The Children’s Online Privacy Protection Act and the COPPA Rule
Require That TikTok Provide Parental Notice and Gain Parental
Consent Before Collecting or Using Children’s Personal Information**

22. In 1998, the Federal Trade Commission (“FTC”) sent a report to Congress regarding online privacy. The FTC found that online data collection practices for children posed “unique privacy and safety concerns because of the particular vulnerability of children, the immediacy and ease with which information can be collected from them, and the ability of the online medium to circumvent the traditional gatekeeping role of the parents.”¹

23. The FTC report recommended that, “Congress develop legislation placing parents in control of the online collection and use of personal information from their children. Such legislation would require websites that collect personal identifying information from children to provide actual notice to parents and obtain parental consent.”²

24. Later that year, Congress enacted the Children’s Online Privacy Protection Act of 1998 (“COPPA”).

25. COPPA directed the FTC to promulgate a rule implementing COPPA. The FTC promulgated the COPPA Rule on November 3, 1999.

26. The COPPA Rule sets requirements for any “operator of a Web site or online service directed to children, or any operator that has actual knowledge that it is collecting or maintaining personal information from a child [under the age of 13].” Section 312.3 of COPPA Rule, 16 C.F.R. §§ 312.3.

27. The COPPA Rule requirements apply to TikTok. TikTok is directed to children, and Tiktok has actual knowledge that it is collecting Personal Information

¹ MARTHA K. LANDESBURG ET AL., FEDERAL TRADE COMMISSION, PRIVACY ONLINE: A REPORT TO CONGRESS iii (1998) at 4-5.

² *Id.* at iii.

1 from Children.

2 28. The COPPA Rule has two requirements that are particularly pertinent to
3 this case: (1) parental notice and (2) parental consent.

4 29. First, pursuant to the COPPA Rule, TikTok must provide direct notice to
5 parents, notifying them of “what information it collects form children, how it uses
6 such information and its disclosure practices for such information.” 16 C.F.R.
7 §§ 312.3(a); 312.4.

8 30. Second, pursuant to the COPPA Rule, TikTok must “[o]btain verifiable
9 parental consent prior to any collection, use, and/or disclosure of personal information
10 from children.” 16 C.F.R. §§ 312.3(b); 312.5.

11 31. The COPPA Rule defines “Personal Information,” as “[I]ndividually
12 identifiable information about an individual collected online, including:

- 13 (1) A first and last name;
14 (2) A home or other physical address including street name and name of
15 a city or town;
16 (3) Online contact information as defined in this section;
17 (4) A screen or user name where it functions in the same manner as
18 online contact information, as defined in this section;
19 (5) A telephone number;
20 (6) A Social Security number;
21 (7) A persistent identifier that can be used to recognize a user over time
22 and across different Web sites or online services. Such persistent
23 identifier includes, but is not limited to, a customer number held in a
24 cookie, an Internet Protocol (IP) address, a processor or device serial
25 number, or unique device identifier;
26 (8) A photograph, video, or audio file where such file contains a child's
27 image or voice;
28 (9) Geolocation information sufficient to identify street name and name

1 of a city or town; or

2 (10) Information concerning the child or the parents of that child that the
3 operator collects online from the child and combines with an identifier
4 described in this definition.”

5 Section 312.2 of COPPA Rule, 16 C.F.R. § 312.2.

6 32. Plaintiffs use the same definition of “Personal Information” from Section
7 312.2 of the COPPA Rule for this Complaint.

8 33. The COPPA Rule defines “Child” as “an individual under the age of 13.”
9 Section 312.2 of COPPA Rule, 16 C.F.R. § 312.2.

10 **B. TikTok Has Repeatedly and Persistently Violated COPPA**

11 34. TikTok’s predecessor Musical.ly launched in 2014. Musical.ly was a
12 social media platform where users could create and share short lip-sync videos.

13 35. By 2016, New York Times tech reporter John Herrman wrote an article
14 about the prevalence of children under the age of 13 on Musical.ly, explaining that
15 “[w]hat is striking about the app, though, is how many of its users appear to be even
16 younger than” than 13.³ Mr. Herrman wrote:

17 The app does not collect or show the age of its users, but
18 some of its top-ranked users, whose posts routinely collect
19 millions of likes, called hearts, appear from their videos and
20 profile photos to be in grade-school. Until recently, the app
21 had a feature that suggested users to follow based on their
22 location. *In New York, that feature revealed a list composed
largely not just of teenagers, but of children.*⁴

23 36. The CEO of a social media advertising agency told the New York Times
24 that with Muscial.ly users, “you’re talking about first, second, third grade.”⁵

25 _____
26 ³ Josh Herrman, *Who’s Too Young for an App? Musical.ly Tests the Limits*, New
York Times, Sept. 16, 2016, <https://www.nytimes.com/2016/09/17/business/media/a-social-network-frequented-by-children-tests-the-limits-of-online-regulation.html>.

27 ⁴ *Id.* (emphasis added).

28 ⁵ *Id.*

1 37. As Musical.ly was gaining popularity among elementary school kids in
2 the United States, Beijing-based ByteDance Ltd. created TikTok in 2017.

3 38. On November 9, 2017, ByteDance Ltd. purchased Musical.ly for almost
4 \$1 billion. On August 2, 2018, TikTok merged with Musical.ly, consolidating the
5 accounts and data into one application.

6 39. In February 2019, the United States Department of Justice filed a
7 complaint against TikTok's predecessors, Musical.ly and Musical.ly, Inc., alleging
8 violations of the COPPA Rule and Section 5 of the FTC Act, 15 U.S.C. § 45.

9 40. The Department of Justice alleged that TikTok's Musical.ly predecessors
10 had collected and used personal information from children younger than 13 in
11 violation of COPPA, including by (1) failing to directly notify parents of the
12 information it collects online from children under 13 and how it uses such information
13 and (2) failing to obtain verifiable parental consent before any collection or use of
14 personal information from children under 13. *United States v. Musical.ly, et al.*, No.
15 2:19-cv-01439-ODW-RAO (C.D. Cal. Feb. 27, 2019) (Dkt. No. 1).

16 41. In March 2019, the Honorable Otis D. Wright II entered a Stipulated
17 Order for Civil Penalties, Permanent Injunction, and Other Relief against TikTok's
18 predecessors. *United States v. Musical.ly, et al.*, No. 2:19-cv-01439-ODW-RAO (C.D.
19 Cal. Mar. 27, 2019) (Dkt. No. 10) (2019 Permanent Injunction).

20 42. As part of the 2019 Permanent Injunction, TikTok's predecessors were
21 enjoined from violating the COPPA Rule, including by (1) "failing to make
22 reasonable efforts, taking into account available technology, to ensure that a parent of
23 a child receives direct notice of Defendants' practices with regard to the collection,
24 use, or disclosure of personal information from children" and (2) "failing to obtain
25 verifiable parental consent before any collection, use, or disclosure of personal
26 information from children." 2019 Permanent Injunction at 8.

27 43. In 2019, Musical.ly was renamed TikTok Ltd., and Musical.ly Inc. was
28 renamed TikTok Inc. This renaming did not change the companies' obligations under

1 the 2019 Permanent Injunction.

2 **C. Despite the Permanent Injunction, TikTok Collects and Uses Children’s**
3 **Personal Information Without Parental Notification or Consent**

4 44. Despite the 2019 Permanent Injunction, millions of American children
5 under the age of 13 continue to join TikTok. And, TikTok continues to collect and use
6 their Personal Information.

7 45. When users create a TikTok account, TikTok uses an “age gate” and
8 requires that the user provide their birthday – the day, month, and year.

9 46. Since at least March 2019, if a Child enters a birthday that indicates that
10 they are 13 years old or over, then they are provided with a regular TikTok account.

11 47. Since at least March 2019, if a Child enters a birthday that indicates that
12 they are younger than 13 years old, then they are provided with a “TikTok For
13 Younger Users” or “Kids Mode” account. TikTok does not notify parents or obtain
14 parental consent for Kids Mode accounts.

15 48. Children with Kids Mode accounts can view videos but cannot post
16 videos.

17 49. TikTok’s “age gate” is insufficient. Other than asking for their birthday,
18 TikTok makes no other attempt during the sign-in process to verify the user’s age.

19 50. TikTok and its employees have long known that children misrepresent
20 their ages to pass through TikTok’s age gate, and that despite other measures
21 purportedly designed to remove children from the platform, children are ubiquitous.

22 51. TikTok’s internal company data and documents classified 18 million of
23 its 49 million daily users in the United States as being 14 years or younger.⁶

24 52. A former TikTok employee said that TikTok employees had pointed out
25 videos from children who appeared to be younger than 13 that were allowed to remain
26

27 ⁶ Raymond Zhong & Sheera Frenkel, *A Third of TikTok’s U.S. Users May Be 14*
28 *or Under, Raising Safety Questions*, New York Times, Aug. 14, 2020,
<https://www.nytimes.com/2020/08/14/technology/tiktok-underage-users-ftc.html>.

1 online for weeks.⁷

2 53. Defendants use human content moderators to review flagged accounts
3 that potentially belong to children. In January 2020, for example, a TikTok moderator
4 recognized that Defendants maintain accounts of children despite the “fact that we
5 know the user is U13,” i.e., under the age of 13, so long as the child’s profile does not
6 admit that fact explicitly.

7 54. Another employee admitted that TikTok moderators were required to
8 ignore any “external information” indicating that a user under review is a child.

9 55. As another example, in a July 2020 chat, one of Defendants’ employees
10 circulated the profiles of numerous underage users he had identified “literally through
11 one minute of scanning,” noting “[t]his is incredibly concerning and needs to be
12 addressed immediately.”

13 56. TikTok utilizes internal algorithms to predict user’s ages based on their
14 online behavior. However, TikTok refuses to use its age-prediction algorithm to
15 identify children under the age of 13 and stop them from using regular TikTok
16 accounts.

17 57. Furthermore, until at least May 2022, TikTok allowed consumers to
18 avoid the age gate when creating a TikTok account by allowing consumers to use
19 login credentials from certain third-party online services, including Instagram and
20 Google. Children were permitted to create TikTok accounts without entering their
21 birthday if they used login credentials from Google. However, Google allowed
22 children under the age of 13 to create Google accounts with parental consent to use
23 Google.

24 58. Regardless of whether a Child uses a regular TikTok account or a Kids
25 Mode account, TikTok violates the COPPA Rule by collecting and using their
26 Personal Information without parental notice and consent.

27
28 ⁷ *Id.*

1 59. TikTok’s insufficient age verification policies resulted in millions of
2 Children gaining access to regular TikTok accounts and to the adult content and
3 features of a regular TikTok account.

4 60. For Children with regular TikTok accounts, TikTok collects Personal
5 Information about them, including first and last name, age, email address, phone
6 number, persistent identifiers for the device(s) used to access TikTok, social media
7 account information, and profile image(s), as well as photographs, videos, and audio
8 files containing the user’s image and voice and the metadata associated with such
9 media (such as when, where, and by whom the content was created), usage
10 information, device information, location data, image and audio information,
11 metadata, and data from cookies and similar technologies that track users across
12 different websites and platforms.

13 61. For Children with Kids Mode accounts, TikTok still collects Personal
14 Information about them, including several types of persistent identifiers, including IP
15 address and unique device identifiers. TikTok also collects app activity data, device
16 information, mobile carrier information, and app information from Children using
17 Kids Mode accounts—which it combines with persistent identifiers and uses to amass
18 profiles on children.

19 62. In August 2024, the Department of Justice filed a new complaint alleging
20 that TikTok violated COPPA and the COPPA Rule, including by (1) knowingly
21 creating accounts for children and collecting data from those children without first
22 notifying their parents and obtaining verifiable parental consent; (2) failing to honor
23 parents’ requests to delete their children’s accounts and information; and (3) failing to
24 delete the accounts and information of users it knows are children.

D. TikTok Generates Revenue from Its Unlawful Conduct by Advertising to Children

63. TikTok is a short-form video social media platform. TikTok is a short-form video social media platform.

64. In January 2024, TikTok reported that it had approximately 170 million monthly active users in the United States.

65. TikTok earns a substantial amount of its revenue from advertising.

66. TikTok reported that it earned \$16 billion in revenue in the United States in 2023.

67. TikTok uses the Personal Information collected from children (under the age of 13) to target them with advertising.

68. TikTok targets users with specific advertisements by collecting persistent identifiers about the users and combining the identifiers with other information about the users.

69. In other words, TikTok targets specific advertisements to children (under the age of 13) by violating COPPA. Thus, a substantial portion of the revenue that TikTok earns from advertisements that are served on children (under the age of 13) is a direct and proximate result of TikTok's violation of COPPA.

70. TikTok's algorithm is trained on data collected from users via the TikTok platform and from third-party sources. Such data include videos viewed, "liked," or shared, accounts followed, comments, content created, video captions, sounds, and hashtags, as well as device and account settings such as language preference, country setting, and device type.

71. TikTok combines this collected data with children's persistent identifiers. The collected data is thus Personal Information. Section 312.2 of COPPA Rule, 16 C.F.R. § 312.2.

72. TikTok also provides targeting options to advertisers that are based on this collected Personal Information.

1 73. For example, for behavioral targeting, TikTok targets users based on their
2 interactions with organic and paid content, including the types of videos the user
3 viewed.

4 74. For example, for interest targeting, TikTok's algorithm analyzes users'
5 long-term platform activities.

6 **E. Plaintiffs' Allegations**

7 **i. Plaintiff Jody Villanueva, on behalf of her child, J.C., a minor**

8 75. This action is brought on J.C.'s behalf by Plaintiff Jody Villanueva.

9 76. During the Class Period, J.C. created and used TikTok accounts (while
10 under the age of 13) and viewed content on the TikTok platform.

11 77. J.C. created a TikTok account when she was approximately 8 years old.

12 78. During the Class Period, Defendants collected J.C.'s Personal
13 Information for the purpose of tracking J.C.'s activity and utilizing targeted
14 advertisements.

15 79. Defendants never obtained consent from nor notified J.C.'s parent and
16 legal guardian, Jody Villanueva, at any point prior to or during its collection and use
17 of J.C.'s Personal Information.

18 80. Defendants were bound by the 2019 Permanent Injunction that prohibited
19 Defendants from collecting Personal Information from children under the age of 13,
20 and therefore this conduct could not have reasonably been discovered earlier through
21 investigation.

22 **ii. Plaintiff Angela Faucett, on behalf of her child, K.F., a minor**

23 81. This action is brought on K.F.'s behalf by Plaintiff Angela Faucett.

24 82. During the Class Period, K.F. created and used a TikTok account (while
25 under the age of 13) and viewed content on the TikTok platform.

26 83. K.F. created a TikTok account when she was approximately 9 or 10 years
27 old.

28 84. During the Class Period, Defendants collected K.F.'s Personal

1 Information for the purpose of tracking K.F.'s activity and utilizing targeted
2 advertisements.

3 85. Defendants never obtained consent from nor notified K.F.'s parent and
4 legal guardian, Angela Faucett, at any point prior to or during its collection and use of
5 K.F.'s Personal Information.

6 86. Defendants were bound by the 2019 Permanent Injunction that prohibited
7 Defendants from collecting Personal Information from children under the age of 13,
8 and therefore this conduct could not have reasonably been discovered earlier through
9 investigation.

10 ***iii. Plaintiff Lamartine Pierre, Jr., on behalf of his child, C.P., a minor.***

11 87. This action is brought on C.P.'s behalf by Plaintiff Jody Villanueva.

12 88. During the Class Period, C.P. created and used a TikTok account (while
13 under the age of 13) and viewed content on the TikTok platform.

14 89. C.P. created a TikTok account when she was approximately 12 years old.

15 90. During the Class Period, Defendants collected C.P.'s Personal
16 Information for the purpose of tracking C.P.'s activity and utilizing targeted
17 advertisements.

18 91. Defendants never obtained consent from nor notified C.P.'s parent and
19 legal guardian, Lamartine Pierre, Jr., at any point prior to or during its collection and
20 use of C.P.'s personal information.

21 92. Defendants were bound by the 2019 Permanent Injunction that prohibited
22 Defendants from collecting Personal Information from children under the age of 13,
23 and therefore this conduct could not have reasonably been discovered earlier through
24 investigation.

25 **CLASS ALLEGATIONS**

26 93. Plaintiff re-alleges and incorporates by reference herein all of the
27 allegations contained above.

28 94. The Class Period is defined as March 28, 2019 to the present.

1 95. Neither Plaintiffs nor Class Members could have discovered the
2 misconduct by TikTok that gives rise to their causes of action because (i) TikTok
3 purported to be abiding by the 2019 Permanent Injunction and (ii) TikTok concealed
4 its misconduct.

5 96. Plaintiffs allege that all applicable statutes of limitation have been tolled
6 by the discovery rule and by TikTok's fraudulent concealment.

7 97. Pursuant to Federal Rule of Civil Procedure 23(b)(3), Plaintiff asserts
8 claims on behalf of the following "Classes:"

9
10 **National Class:** All United States residents (who were younger than 13 years
11 old when they used TikTok) from whom Defendants collected and/or used
12 Personal Information during the Class Period without notifying their parents
13 and obtaining verifiable parental consent beforehand.

14
15 **California Class:** All California residents (who were younger than 13 years old
16 when they used TikTok) from whom Defendants collected and/or used Personal
17 Information during the Class Period without notifying their parents and
18 obtaining verifiable parental consent beforehand.

19
20 **Washington Class:** All Washington residents (who were younger than 13 years
21 old when they used TikTok) from whom Defendants collected and/or used
22 Personal Information during the Class Period without notifying their parents
23 and obtaining verifiable parental consent beforehand.

24
25 **New York Class:** All New York residents (who were younger than 13 years old
26 when they used TikTok) from whom Defendants collected and/or used Personal
27 Information during the Class Period without notifying their parents and
28 obtaining verifiable parental consent beforehand.

1 98. Excluded from the Classes are Defendants, any entity in which the
2 Defendants have a controlling interest, and Defendants' officers, directors, legal
3 representatives, successors, and subsidiaries. Also excluded from the Classes are any
4 judge, justice, or judicial officer presiding over this matter and the members of their
5 immediate families and judicial staff.

6 99. This action has been brought and may properly be maintained as a class
7 action as it satisfies the numerosity, commonality, typicality, adequacy, and
8 superiority requirements of Rule 23(b)(3). Plaintiffs seek to represent ascertainable
9 Classes, as determining inclusion in the class can be done through TikTok's own
10 records and/or the records of third parties.

11 100. Plaintiffs reserve the right to amend the Class definitions if discovery and
12 further investigation reveal that the Classes should be expanded, divided into
13 subclasses, or modified in any other way.

14 101. Although the precise number of Class Members is unknown and can only
15 be determined through appropriate discovery, publicly available information indicates
16 that TikTok collected and used the Personal Information of millions of American
17 children (under the age of 13) during the Class Period without notifying their parents
18 and obtaining verifiable parental consent beforehand. Plaintiffs thus believe that the
19 proposed Class is so numerous that joinder of all members would be impracticable.

20 102. Questions of law and fact common to the putative Classes predominate
21 over questions affecting only individual members, including *inter alia*:

22 a. Whether TikTok has or had a practice of collecting Personal Information
23 from children who were younger than 13 years old without notifying their parents and
24 obtaining verifiable parental consent beforehand;

25 b. Whether TikTok has or had a practice of using Personal Information
26 from children who were younger than 13 years old without notifying their parents and
27 obtaining verifiable parental consent beforehand;

28 c. Whether TikTok's practices violate the Children's Online Privacy

1 Protection Act of 1998 (“COPPA”) and the Children’s Online Privacy Protection Rule
2 (“COPPA Rule”);

3 d. Whether TikTok engaged in unlawful business practices;

4 e. Whether TikTok engaged in unfair business practices;

5 f. Whether TikTok has unjustly received and retained monetary benefits
6 from Plaintiffs’ minor children and Class Members by profiting off the use of their
7 Personal Information; and

8 g. Whether Class Members are entitled to damages and/or restitution, and if
9 so, the method of computing damages and/or restitution.

10 103. Plaintiffs are members of the putative Classes. The claims asserted by
11 Plaintiffs in this action are typical of the claims of the members of the putative
12 Classes, as the claims arise from the same course of conduct by the Defendants and
13 the relief sought is common.

14 104. Plaintiffs will fairly and adequately represent and protect the interests of
15 the Class Members, as their interests are coincident with, and not antagonistic to, the
16 other Class Members.

17 105. Plaintiffs have retained counsel competent and experienced in both
18 consumer protection and class action litigation. Plaintiffs’ counsel has experience
19 litigating some of the largest and most complex consumer class actions.

20 106. Certification of the Classes is appropriate pursuant to Fed. Rule of Civil
21 Procedure 23(b)(3) because questions of law or fact common to the respective
22 members of the Class predominate over questions of law or fact affecting only
23 individual members. This predominance makes class litigation superior to any other
24 method available for the fair and efficient adjudication of these claims including
25 consistency of adjudications. Absent a class action, it would be highly unlikely that
26 the members of the Classes would be able to protect their own interests because the
27 cost of litigation through individual lawsuits might exceed the expected recovery.

28 107. A class action is a superior method for the adjudication of the

1 controversy in that it will permit a large number of claims to be resolved in a single
2 forum simultaneously, efficiently, and without the unnecessary hardship that would
3 result from the prosecution of numerous individual actions and the duplication of
4 discovery, effort, expense, and the burden of the courts that individual actions would
5 create.

6 108. Plaintiffs intend to provide direct notice to Class Members through the
7 TikTok platform and through e-mail.

8 109. In the alternative, the Classes should be certified pursuant to Federal Rule
9 of Civil Procedure 23(b)(2) because:

10 110. The prosecution of separate actions by the individual members of the
11 proposed class would create a risk of inconsistent adjudications, which could establish
12 incompatible standards of conduct for TikTok;

13 111. The prosecution of individual actions could result in adjudications, which
14 as a practical matter, would be dispositive of the interests of non-party class members
15 or which would substantially impair their ability to protect their interests; and

16 112. TikTok has acted or refused to act on grounds generally applicable to the
17 proposed Classes, thereby making appropriate final and injunctive relief with respect
18 to the members of the proposed Classes as a whole.

19
20 **CAUSES OF ACTION**

21 **FIRST CAUSE OF ACTION**

22 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW**

23 Cal. Bus. & Prof. § 17200, *Et. Seq.*

24 (Asserted by Plaintiffs Villanueva, Faucett, and Pierre on Behalf of National Class and
25 by Plaintiff Villanueva on Behalf of the California Class)

26 113. Plaintiffs re-allege and incorporate by reference herein all of the
27 allegations above.

28 114. California's Unfair Competition Law, Cal. Bus. & Prof. Code §17200 et

1 seq. (“UCL”) prohibits any “unlawful, unfair, or fraudulent business act or practice.”

2 115. TikTok violated the UCL by engaging in the “unlawful” and “unfair”
3 business acts and practices alleged previously, and as further specified below.

4 116. TikTok engaged in “unlawful” business acts and/or practices by violating
5 the Children’s Online Privacy Protection Act of 1998 (“COPPA”) and the Children’s
6 Online Privacy Protection Act Rule (“COPPA Rule”).

7 117. TikTok violated Sections 312.3, 312.4, and 312.5 of COPPA, 16 C.F.R.
8 §§ 312.3-5, by collecting and using Personal Information from Plaintiffs’ minor
9 children and Class Members (children younger than 13 years old) without notifying
10 their parents and obtaining verifiable parental consent.

11 118. TikTok engaged in “unfair” business acts and/or practices by collecting
12 and using Personal Information from Plaintiffs’ minor children and Class Members
13 (children younger than 13 years old) without notifying their parents and obtaining
14 verifiable parental consent. This practice is unethical, unscrupulous, and substantially
15 injurious to children, and thus constitutes an unfair practice under the UCL. The harm
16 these practices caused to Plaintiffs’ minor children and Class Members outweigh their
17 utility, if any.

18 119. Plaintiffs have standing to bring these claims under the UCL. As a direct
19 and proximate result of TikTok’s unlawful and unfair business acts and practices,
20 Plaintiffs’ minor children and Class Members were injured and lost money or
21 property.

22 120. First, as a direct and proximate result of Tiktok’s unlawful and unfair
23 business acts and practices, Plaintiffs’ minor children and Class Members suffered
24 “benefit-of-the-bargain” injuries and damages. Plaintiffs’ minor children and Class
25 Members did not receive the full benefit of the bargain, and instead received services
26 from TikTok that were less valuable than the services they would have received if
27 TikTok had abided by COPPA.

28 121. Plaintiffs’ minor children and Class Members, therefore, were damaged

1 in an amount at least equal to the difference in value of the TikTok service that
2 Plaintiffs' minor children and Class Members received (where TikTok collected and
3 used children's Personal Information without notifying their parents or gaining their
4 parents' consent) and the value of the TikTok service that Plaintiffs' minor children
5 and Class Members would have received if TikTok had abided by COPPA (and not
6 collected and used children's Personal Information without notifying their parents or
7 gaining their parents' consent).

8 122. Second, as a direct and proximate result of TikTok's unlawful and unfair
9 business acts and practices, Plaintiffs' minor children and Class Members suffered
10 "right to exclude" injuries and damages.

11 123. Plaintiffs' minor children and Class Members have a property interest in
12 the Personal Information collected by TikTok. Plaintiffs' minor children and Class
13 Members suffered an economic injury because they were deprived of their right to
14 exclude TikTok from their Personal Information.

15 124. Plaintiffs' minor children and Class Members' damages may also be
16 measured by the amount of monetary compensation that TikTok would have to
17 provide to parents to gain their consent to collect and use their children's Personal
18 Information.

19 125. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiffs seek equitable
20 relief to enjoin TikTok from continuing its unlawful and unfair practices and any other
21 equitable relief necessary to secure the interests of the Class Members.

22 126. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiffs request that the
23 Court restore to Plaintiffs and the Class, in the form of restitution, all money TikTok
24 may have acquired as result of its unlawful and unfair business practices.

25 127. Plaintiffs allege that they lack an adequate remedy at law. The restitution
26 that Plaintiffs seek under the UCL is not the same remedy as disgorgement for unjust
27 enrichment.

SECOND CAUSE OF ACTION

UNJUST ENRICHMENT

(Asserted by Plaintiffs Villanueva, Faucett, and Pierre on Behalf of a National Class and, in the alternative by Plaintiff Villanueva on Behalf of the California Class, Plaintiff Pierre on Behalf of the New York Class, and Plaintiff Faucett on Behalf of the Washington Class)

128. Plaintiffs re-allege and incorporate by reference herein all of the allegations contained above.

129. TikTok has unjustly received and retained monetary benefits from Plaintiffs' minor children and Class Members by profiting off the use of their Personal Information under unjust circumstances such that inequity has resulted.

130. TikTok knowingly obtained benefits from Plaintiffs' minor children and Class Members as alleged herein under circumstances such that it would be inequitable and unjust for TikTok to retain them.

131. TikTok has been knowingly enriched by revenues and profits it received from unjustly and illegally collecting and using the Personal Information of children under the age of 13 to build profiles and target advertisements to those children.

132. TikTok failed to obtain legally valid consent from Plaintiffs' minor children and Class Members to collect and use their Personal Information.

133. Thus, TikTok will be unjustly enriched if it is permitted to retain the benefits derived from the illegal collection and usage of Plaintiffs' minor children and Class Members' Personal Information.

134. Plaintiffs' minor children and Class Members are therefore entitled to relief, including disgorgement of all revenues and profits that TikTok earned as a result of its unlawful and wrongful conduct.

THIRD CAUSE OF ACTION

WASHINGTON CONSUMER PROTECTION ACT,

Wash. Rev. Code. § 19.86.010, *et seq*

(Asserted by Plaintiff Faucett on Behalf of the Washington Class)

135. Plaintiffs re-allege and incorporate by reference herein all of the allegations contained above.

136. Washington Plaintiff, the Washington Class Members, and TikTok are “persons” within the meaning of Wash. Rev. Code § 19.86.010(2).

137. TikTok committed the acts complained of herein in the course of “trade” or “commerce” within the meaning of Wash. Rev. Code § 19.96.010.

138. TikTok engaged in consumer-oriented conduct by offering and promoting its TikTok social media platform.

139. Washington’s Consumer Protection Act, Wash. Rev. Code § 19.86.010 *et seq.* (“CPA”) prohibits “unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” Wash. Rev. Code § 19.86.020.

140. The Washington CPA instructs that, in construing the Washington CPA, the courts will be “guided by final decisions of the federal courts and final orders of the federal trade commission interpreting the various federal statutes dealing with the same or similar matters.” Wash. Rev. Code § 19.86.920.

141. TikTok violated the Washington CPA by engaging in the “unlawful” business acts and practices alleged previously, and as further specified below.

142. TikTok engaged in “unfair” business acts and/or practices by violating COPPA and the COPPA Rule.

143. TikTok violated Sections 312.3, 312.4, and 312.5 of COPPA, 16 C.F.R. §§ 312.3-5, by collecting and using Personal Information from Plaintiffs’ minor children and Class Members (children younger than 13 years old) without notifying their parents and obtaining verifiable parental consent.

144. TikTok’s business practices alleged herein are unethical, unscrupulous,

1 and substantially injurious to children, and thus constitute an unfair practice under the
2 Washington CPA. The harm these practices caused to Plaintiffs' minor children and
3 Class Members outweigh their utility, if any.

4 145. As a direct and proximate result of TikTok's unfair business acts and
5 practices, Plaintiffs' minor children and Class Members were injured and lost money
6 or property.

7 146. First, as a direct and proximate result of Tiktok's unfair business acts and
8 practices, Plaintiffs' minor children and Class Members suffered "benefit-of-the-
9 bargain" injuries and damages. Plaintiffs' minor children and Class Members did not
10 receive the full benefit of the bargain, and instead received services from TikTok that
11 were less valuable than the services they would have received if TikTok had abided by
12 COPPA.

13 147. Plaintiffs' minor children and Class Members, therefore, were damaged
14 in an amount at least equal to the difference in value of the TikTok service that
15 Plaintiffs' minor children and Class Members received (where TikTok collected and
16 used children's Personal Information without notifying parents or gaining their
17 parents' consent) and the value of the TikTok service that Plaintiffs' minor children
18 and Class Members would have received if TikTok had abided by COPPA (and not
19 collected and used children's Personal Information without notifying parents or
20 gaining their parents' consent).

21 148. Second, as a direct and proximate result of TikTok's unlawful and unfair
22 business acts and practices, Plaintiffs' minor children and Class Members suffered
23 "right to exclude" injuries and damages.

24 149. Plaintiffs' minor children and Class Members have a property interest in
25 the Personal Information collected by TikTok. Plaintiffs' minor children and Class
26 Members suffered an economic injury because they were deprived of their right to
27 exclude TikTok from their Personal Information.

28 150. Plaintiffs' minor children and Class Members' damages may also be

1 measured by the amount of monetary compensation that TikTok would have to
2 provide to parents to gain their consent to collect and use their children's Personal
3 Information.

4 151. Plaintiffs' minor children and Class Members seek restitution for monies
5 wrongfully obtained, disgorgement of ill-gotten revenues and/or profits, injunctive
6 relief, actual damages, treble damages, attorney's fees and other relief allowable under
7 Wash. Rev. Code § 19.86.090.

8 **PRAYER FOR RELIEF**

9 **WHEREFORE**, Plaintiffs, on behalf of their minor children and the Classes,
10 seek the following relief:

11 A. An order certifying this action as a class action under Fed. R. Civ. P.
12 23(b)(2) and/or (b)(2), defining the Class as requested herein, appointing Cohen
13 Milstein Sellers & Toll PLLC, as Class Counsel, and finding that Plaintiffs are proper
14 representatives of the Classes requested herein.

15 B. Damages, including compensatory damages, actual damages, and benefit-
16 of-the-bargain damages, and nominal damages.

17 C. Restitution.

18 D. Disgorgement to Plaintiffs and the Class of all monies TikTok
19 wrongfully obtained and retained.

20 E. Punitive and Exemplary Damages.

21 F. Attorneys' fees.

22 G. Reasonable costs incurred in connection with this action, including expert
23 witness fees, and other costs as provided by law.

24 H. Prejudgment interest commencing on the date of the legal violations and
25 continuing through the date of the entry of judgment in this action.

26 I. Equitable and declaratory relief.

27 J. Injunctive relief.

28 K. Any other relief available under the claims brought by Plaintiffs.

1 L. Granting such other relief as the Court deems proper.

2 **JURY TRIAL DEMAND**

3 Plaintiff hereby request a jury trial for all issues so triable of right.

4
5
6 Dated: September 17, 2024

7
8 By: /s/ Paul Hoffman

9 Eric Kafka (*pro hac vice* forthcoming)
10 **COHEN MILSTEIN SELLERS &**
11 **TOLL PLLC**
12 88 Pine Street, 14th Floor
13 New York, NY 10005
14 Telephone: (212) 838-7797
15 Facsimile: (212) 838-7745
16 ekafka@cohenmilstein.com

17 Karina Puttieva (SBN 317702)
18 Jenna Waldman (SBN 341491)
19 **COHEN MILSTEIN SELLERS &**
20 **TOLL PLLC**
21 1100 New York Ave. NW, Fifth Floor
22 Washington, DC 20005
23 Telephone: (202) 408-4600
24 Facsimile: (202) 408-4699
25 kputtieva@cohenmilstein.com
26 jwaldman@cohenmilstein.com

27 PAUL HOFFMAN (SBN 71244)
28 **SCHONBRUN SEPLOW HARRIS**
HOFFMAN & ZELDES LLP
200 Pier Ave., Suite 226
Hermosa Beach, CA 90254
Telephone: (424) 297-0114
Facsimile: (310) 399-7040
hoffpaul@aol.com

Attorneys for Plaintiffs and Putative Class